

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CV No. 07-00473 JMS/BKM
)	CR No. 05-00027 JMS
v.)	
)	DECLARATION OF COUNSEL
ERIC K. HO,)	
)	
Defendant.)	
)	
)	
)	
)	

DECLARATION OF COUNSEL

I, MICHAEL J. PARK, state under penalty of perjury of law, upon
information and belief that the following is true and correct:

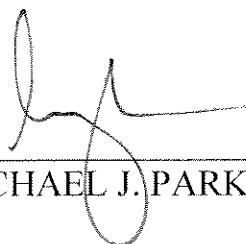
1. I am the court appointed attorney representing Defendant ERIC K. HO in this matter.
2. That on February 9, 2005, Eric Ho was charged in Count 1 with Conspiracy to Possess with Intent to Distribute 50 grams or more of Methamphetamine.
3. On or about September 30, 2005, Mr. Ho entered into a plea agreement with the government.
4. On September 30, 2005, Mr. Ho pled guilty to Count 1.
5. On January 13, 2006, prior counsel for Mr. Ho filed his objections to the draft sentencing report.

6. On January 24, 2006, the government filed its Motion for Downward Departure, and a memorandum in support of its motion for downward departure.
7. On March 3, 2006, sentencing was held for Mr. Ho wherein he was sentenced to 180 months (15 years). Additionally, the government's Motion for Downward Departure was granted.
8. At a status conference on May 15, 2006, Mr. Ho's attorney, Craig Kimsel withdrew as Defendant's counsel.
9. On June 6, 2006, Notice of Appeal was filed and voluntarily dismissed on September 11, 2006.
10. Prior to September 12, 2007, Mr. Ho mailed pro se, a handwritten Motion to Vacate, Set Aside, or Correct Sentence that was filed on September 12, 2007. (See Defendant's Motion Under 28 U.S.C. 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody date stamped Sep.12 2007)
11. Defendant asserts that he spoke with his former attorney and his attorney said he would file an appeal, despite counsel's belief that defendant did not have a viable reason or grounds for an appeal. Thereafter, counsel failed to file an appeal on behalf of defendant.

12. Defendant Ho further alleges that he suffers from Machado-Joseph Disease. Machado-Joseph Disease is a genetic disorder of the central nervous system that cripples and paralyzes. (See Attachment A) Defendant informed his prior counsel of his disorder, but his attorney failed to file a pre-sentence motion on this issue to apprise the court of the extent of defendant's debilitating and terminal illness.
13. Defendant asserts he received ineffective assistance of counsel at sentencing as counsel failed to prepare an argument relating to this disorder based on 18 U.S.C. Section 3553(a)(2)(D), as well as counsel's failure to file an appeal on his behalf.
14. Defendant respectfully requests that this court vacate his judgment and reconsider his sentence after considering his current medical condition.

I DECLARE UNDER PENALTY OF LAW THAT THE FORGOING IS
TRUE AND CORRECT.

DATED: Honolulu, Hawaii, January 4, 2008.



MICHAEL J. PARK